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ABSTRACT

The study guide presents background information, questions and answers, primary source material, and guidelines designed to provide secondary schools with basic sources for observing how the New York state system evolved from the colonial experience and the precedents established by the first state constitution. The documents in the publication are to be used selectively in the classroom by teachers to stress the role of state constitutions in providing a government under law. The first chapter sketches the background of the New York State Constitution of 1777. Forty-one questions are presented to be answered by students after reading selected material in the study guide. The second chapter discusses the colonial government of New York through excerpts from a 1774 governor's report. A letter of transmittal of the Constitution of 1777 is included in original handwriting in the third chapter. A handwritten sample of the 1777 Constitution of the State of New York is presented in the fourth chapter. The bulk of the document, contained in chapter five, is a reprint of the 1846 Constitution of the State of New York. The last chapter presents a 1977 referendum that includes the questions, who should serve as delegates? what changes should be made? and what kind of government should New York state have? (Author/DB)

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A STUDY GUIDE FOR

CONSTITUTIONS

IN EFFECT IN

NEW YORK

SO 009 781

The University of The State of New York
THE STATE EDUCATION DEPARTMENT
Bureau of General Education Curriculum Development
Albany, New York 12234
1976

THE UNIVERSITY OF THE STATE OF NEW YORK

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FOREWORD

Constitutions in Effect In New York is designed for use in schools during Bicentennial observances, and for many years to come. It provides a reminder that we are not only celebrating the declaration of independent status, but also commemorating the establishment of working governmental systems in each of the states and in the nation.

Nineteen hundred and seventy-seven is the two hundredth anniversary of the framing of the first Constitution in New York State. The documents included in this publication provide schools with the basic sources for observing how our present State system has evolved from the colonial experience and the precedents established by the first State Constitution.

Robert Neiderberger, social studies teacher, the Milne School, Albany, and Katherine B. Johnson, formerly education coordinator for the New York State Bicentennial Commission, have identified the pertinent documents and prepared suggestions for classroom use. The project was under the direction of the Bicentennial Committee of the General Education and Curricular Services branch of the Department, chaired by Donald H. Bragaw, chief, Bureau of Social Studies Education, and Helene C. Loew, associate, Bureau of Foreign Language Education. Janet M. Gilbert, associate, Bureau of General Education Curriculum Development, was in general charge of the project and prepared the manuscript for printing.

VIVIENNE ANDERSON
Assistant Commissioner for
General Education and Curricular Services

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STUDY GUIDE FOR CONSTITUTIONS IN EFFECT IN NEW YORK

TO THE TEACHER

"...The State of New York was born in 1777. ... The transition from British province to an American state was a complicated political process. There were many knotty questions to solve before the institutions of statehood could be established. The work of John Jay in particular, the father of the New York State Constitution and one of the political geniuses of eighteen-century America, deserves to be studied and honored by every citizen."

(Louis L. Tucker, Executive Director, New York State American Bicentennial Commission, in The Correspondent.)

In Topic 8, Local and State Government and Civic Responsibility of the Social Studies syllabus for Grade 7, there are several understandings related to the State Constitution. These fulfill the requirements of the legislative mandate that "the Regents shall prescribe courses of instruction in the history, meaning, significance and effect of the provision of...the Constitution of the State of New York and the amendments thereto." At this particular time in history, they offer an opportunity for students to develop a new appreciation of the importance of a constitution in providing for a government under law.

A problem which the teacher faces in confronting a myriad of primary source material such as this is how to incorporate it into the classroom experience without it becoming more content to cover. Students forced to deal with the details of the colonial description of government, plus the two Constitutions contained within this publication, as well as the many-paged State Constitutions and amendments now in force for which the citation is given will develop little appreciation of the document's significance. Under no circumstances should it be regarded as a workbook, simply to be reproduced in its entirety and placed in the students' hands. Teacher discretion is needed to select those portions most useful for the students.

The questions proposed in the study guide are intended as guidelines for the teacher in determining how this source material can be used to help students reach the understandings in the syllabus. For example, questions which suggest comparisons between the various State Constitutions are directly related to the understanding which deals with constitutional change reflecting the changing needs of the people.

Individual students or small groups could be assigned to research points raised in a specific question. The Constitution in effect in 1876 and the present Constitution could be analyzed to identify those elements not necessary to include in a constitution, that is, not limiting or distributing power or defining the mechanics of the governmental operation. The Constitution of 1777 could be compared to the colonial government described in Governor Tryon's report, as a means of learning how much of the governmental process is dictated by previous experience and tradition.

Although it had been planned to reproduce the Constitution of 1777 in handwriting in its entirety in order to lend a note of authenticity, reproduction proved to be so poor that most pages were illegible. Accordingly, only a few handwritten pages have been selected, and a printed version has been included.

BACKGROUND OF THE NEW YORK STATE CONSTITUTION OF 1777

Although 1976 is the nation's bicentennial, 1977 is the bicentennial of the New York State Constitution. Drafted and instituted in a revolutionary era, the New York State Constitution of 1777 bridges the gap between the dying and emerging political orders. It is a milestone in the efforts of Americans to reconcile freedom and control.

In 1777, the same year that the New York State Constitution was drafted, the Articles of Confederation were adopted by the Continental Congress. During the protracted process of ratifying them which lasted until 1789, various states established new governments based on newly drafted constitutions. The New York State Constitution of 1777 and most other constitutions were similar in several respects.

As in other state constitutions, the theoretical premise of the New York Constitution was the concept of a social contract. Throughout the document the people are identified as the source of authority which legitimizes the actions of the Convention. Another similar significant characteristic was the separation of powers among the executive, legislative, and judicial branches of government. To insure the judiciary's independence, judges of the supreme court (statewide level) and first judges of each county court were to be appointed until age sixty (pending good behavior). In New York as in all states, property qualifications for voting and office holding restricted control of the government to the wealthier upper classes. Electors for Governor and the Senate were required to be freeholders possessed of freeholds of the value of 100 pounds, while electors for the Assembly were required to own freeholds of 20 pounds or pay rents of 40 shillings a year. Since then, the deletion of property qualifications has broadened the franchise. In most states the governor was chosen for a one-year term by the legislature; in New York, those electors qualified to vote for the upper house of the state legislature elected the governor to a three-year term.

Contained within the New York State Constitution were guarantees of several basic liberties; e.g., jury trial, which had been threatened by pre-Revolutionary laws. Continuity with the past was insured through the retention of substantial parts of English common law and statutes as well as acts of the legislature of the Colony of New York. Reminiscent of the English King-in-Council, The Appointment Council was both a vestige of the past and an innovative device.

With the advent of the U.S. Constitution in 1789, some functions of the New York State government, as outlined in the New York Constitution became responsibilities of the federal government (e.g., nationalization of immigrants) or lessened in significance (e.g., the governor as military leader). Protection of individual rights were incorporated in the Federal Bill of Rights, but were retained in the State Constitution.

The similarities between the United States Constitution drafted in 1787 and the New York State Constitution of 1777 are striking. The ineffectiveness of government under the Articles of Confederation suggested the inappropriateness of that model. Experiences gained with the more successful

model typified by New York suggested their application at the national level.

- The Federal Constitution and the model of government finally instituted in 1789 were products of lessons learned from the experiments in government that included the Articles of Confederation, the New York Constitution, and similar state constitutions.

("The House in Which the First Constitution Was Framed" - Harper's Weekly, August 18, 1877.)

QUESTIONS RELATING TO THE NEW YORK CONSTITUTION OF 1777

Questions 1-7 relate to the first two pages of the New York State Constitution of 1777. See material beginning on page 17.

1. What reasons were given for setting up temporary governments? Why did the Constitution writers feel that a more permanent government was necessary?

2. "The primary function of government is protection." With this statement in mind, what arguments advanced by the Continental Congress supported the establishment of local governments in which "all the powers of government (would be) executed under the authority of the people of the colonies"?

3. What action did the Continental Congress recommend to colonial assemblies and conventions? Why?

4. What basic recommendations was the New York Convention making to "the electors in the several counties in this colony"? What procedures are indicated?

5. In the interim between the decline of British authority and the emergence of the duly constituted American systems of governments, what was the nature of the quasi-government and the communication network that developed in the colonies? How were these interim organizations similar to or different from comparable bodies in other national revolutions?

6. Why is the Declaration of Independence included within this document?

7. What is the political philosophy underlying the action taken by members of the New York Convention, representatives of the Continental Congress, and members of other colonial bodies of similar persuasion? (What are the historical origins of this body of political theory?) How does their reasoning reflect the "social contract" theory?

8. In whose name does the Convention of 1777 claim to act? In other words, where did ultimate political sovereignty rest? How did this contrast with the British model? See page 15.

Determinations

Questions 1-28 relate to Paragraphs 1-42 of the New York State Constitution of 1777.

1. According to members of the Convention, what was or is the source of all authority in New York? (§.1)

2. How was the legislature of the State of New York to be constituted? (§.2)

3. What checks were instituted? To guard against the possibility of the legislature hastily passing laws inconsistent with the public good, how would these mechanisms work? What contemporary procedures serve these purposes? (§.3)

4. How was representation in the Assembly to be apportioned? (§.4) How was this representation to be modified, to reflect changes in population after 1777? (§.5)

   To what extent has the substance and the intent of the Convention's determinations concerning representation in the New York State Assembly changed since 1777?

5. What "fair experiment" was proposed in voting procedures in the State? How was this voting to be conducted? (§.6)

6. What were the qualifications for voting? (§.7) What was required of each elector before voting? (§.8)

7. In what ways does paragraph 9 suggest the significance of continuity of democratic government in New York State?

8. How did the size of the Senate compare with that of the Assembly? (§.10) How did voting qualifications for the election of State Senators differ from those for the election of State Assemblymen? (§. 7, 10) What might have been the rationale behind the division of the Senate into two classes with staggered elections? (§.11) How was representation in the State Senate to be apportioned? How was this apportionment to be modified in future years? (§.12) [See paragraph 15 for the remainder of the design.] Since then, to what extent has the substance and the intent of this design been altered?

9. How were additional counties and districts to be formed? (§.12) What socioeconomic interests were prominently reflected in the composition of the State Senate? Why?

10. What is the essence of paragraph 13? What is this concept usually called? What is the relevance of this concept today?

11. What means were specified to facilitate cooperation between the two houses of the legislature? (§.14, 15)

12. What was the projected maximum growth to the membership of the Assembly and Senate? How was appointment to be handled when the maximum memberships were reached? (§.16)

13. How was the supreme executive authority of the State to be constituted? What were the regulations regarding election of the Governor? (§.17) What were the Governor's powers and duties? (§.17, 19) How do these responsibilities compare with those presently associated with the office of Governor? What were the specified responsibilities of the Lieutenant Governor? What are they today?

14. What subsequent national events negated the prominent military role (paragraph 20) accorded the Governor of New York?

15. If the Governor were to be absent as a result of death, impeachment, or leading a military force outside the State, what procedures were to be followed? (§.20) Which of the eventualities would be least likely today? Why?

16. What were the procedures for appointing a State Treasurer? (§.22) What government official serves in this capacity today?

17. How were officers whose appointment procedures were not specified in the Constitution to be appointed? (§.23) Why were appointments to be so made? How does this procedure compare to more recent ones?

18. What other stipulations are made regarding appointments to several specific offices? (§. 24, 25, 26, 27) What might have been the rationale behind each requirement? What preoccupation or apprehension of the framers of the Constitution is reflected in the limitations placed on various office holders? What might have been the historical origins of these fears? What is the connection between commissioning, licensing, and similar practices and civic duty and responsibility?

20. On what grounds could officers of the State be removed? What were the procedures? In addition to removal from office, could punishment befall an officer so removed? Explain. (§.28)

21. What protection was allowed a person brought to trial as a result of impeachment or indictment? (§.29) Why?

22. Although New York was in a state of rebellion against the British Crown, how did the Constitutional Convention of 1777 insure continuity in matters of law? Why? To what was the Convention referring by the terms "common law" and "statute law"? Do these terms have meaning today? What does "abrogate" mean? What parts of the common law and statutes of the body of colonial law were to be abrogated? What seems to have been the framers' attitude toward an established religion? Why? (§.35)

23. What additional steps were taken to insure the continuity of social order? (§.36)

24. Whose consent was required for future land deals with the Indians? Why? (§.37)

25. To what extent was religious freedom granted? What activated the Convention with regard to this matter? (§.38) What restrictions were placed on clergymen? Why? (§.39)

26. How was the defense function of the State to be carried out? (§.40) Since 1777, how has this function been modified?

27. What right related to trials was affirmed by this Convention? In which cases was this right to apply? What does the document say regarding acts of attainder? What is an "act of attainder"? What is meant by a "corruption of blood"? To institute any new courts, what was required? (§.41)

28. Why does the Constitution of 1777 refer to the naturalization powers? (§.42) How did subsequent developments affect this function of the State?

QUESTIONS CONCERNING REVOLUTIONARY CHANGE VS. NEED FOR CONTINUITY

- Why might it have been difficult for members of the Constitutional Convention to strike a balance between the pressures for revolutionary change and continuity?
- In what ways did the framers of this Constitution attempt to insure a large measure of continuity with the previous social and legal order? Why?
- In what ways does the New York State Constitution of 1777 reflect a departure from the older established order of that era? In what ways was the Constitution revolutionary? What justified its revolutionary aspects?
- How is the conflict between the pressure for change and the need for continuity manifest in our social order today? What is the impact of this conflict on individual civic responsibility?

QUESTIONS CONCERNING EVOLUTION OF DEMOCRATIC STATE GOVERNMENT

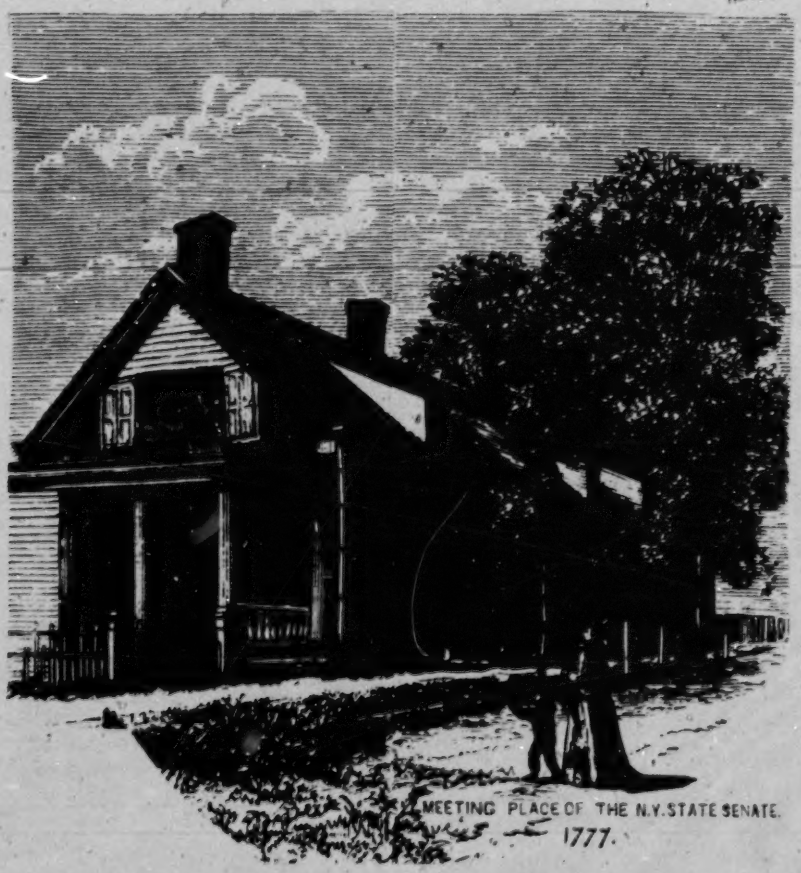
In comparing the New York State Constitution of 1777 with those in effect in 1876 and in the present day,* what observations can be made regarding the following and other matters?

- Voting qualifications
- Complexity of State government

*Printed in the Legislative Manual, a copy of which is available from the principal's office or the school library.

- State functions of increasing importance
- State functions of decreasing importance
- Impact of technology
- Impact of demographic changes
- Civic responsibility
- Citizen participation
- Need for law focused education
- Individual liberties

SEE ALSO: Referendum 1977: Will the Voters Call for a Change? page 65.



("Meeting Place of the N.Y. State Senate. 1777." — Harper's Weekly, August 18, 1877.)

COLONIAL GOVERNMENT OF NEW YORK

REPORT OF GOVERNOR WILLIAM TRYON, ON THE STATE OF THE PROVINCE OF NEW YORK, 1774. (excerpts)

Question No. 6.

What is the Constitution of the Government?

Answer.

by the Grants of this Province and other Territories to the Duke of York in 1663/4 and 1674, the powers of Government were vested in him, and were accordingly exercised by his Governors until he ascended the throne when his Rights as Proprietor merged in his Crown, and the Province ceased to be a charter Government

From that time it has been a Royal Government, and in its Constitution nearly resembles that of Great Britain and the other Royal Governments in America. The Governor is appointed by the King during his Royal Will and pleasure by Letters Pattent under the Great Seal of Great Britain with very ample Powers. He has a Council in Imitation of His Majesty's Privy Council- This Board when full consists of Twelve Members who are also appointed by the Crown during Will & Pleasure; any three of whom make a Quorum.- The Province enjoys a Legislative Body, which consists of the Governor as the King's Representative; the Council in the place of the House of Lords, and the Representatives of the People, who are chosen as in England: Of these the City of New York sends four.- All the other Counties (except the New Counties of Charlotte & Gloucester as yet not represented) send Two.- The Borough of Westchester, the Township of Schenectady and the three Manors of Rensselaerwyck, Livingston and Cortlandt each send one; in the whole forming a Body of Thirty one Representatives.

The Governor by his Commission is authorized to convene them with the advice of the Council, and adjourn, prorogue or dissolve the General Assembly as he shall judge necessary.

This Body has not power to make any Laws repugnant to the Laws and Statutes of Great Britain. All Laws proposed to be made by this Provincial Legislature, pass thro' each of the Houses of Council and Assembly, as Bills do thro' the House of Commons and House of Lords in England, and the Governor has a Negative voice in the making and passing of all such Laws. Every Law so passed is to be transmitted to His Majesty under the Great Seal of the Province, within three months, or sooner after the making thereof and a Duplicate by the next conveyance, in order to be approved or disallowed by his Majesty; And if His Majesty shall disallow any such Law and the same is signified to the Governor under the Royal Sign Manual or by Order of his Majesty's Privy Council, from thenceforth such law becomes utterly void.- A law of the Province has limited the duration of the Assembly to seven years.

From Documentary History of the State of New York, E.B. O'Callaghan, 1850, vol. I.

The Common Law of England is considered as the Fundamental law of the Province and it is the received Doctrine that all the Statutes (not Local in their nature, and which can be fitly applied to the circumstances of the Colony) enacted before the Province had a Legislature, are binding upon the Colony, but that Statutes passed since do not affect the Colony, unless by being specially named, such appears to be the Intentions of the British Legislature.

The Province has a Court of Chancery in which the Governor or Commander in chief sits as Chancellor and the Practice of the Court of Chancery in England, is pursued as closely as possible. The officers of this Court consist of a Master of the Rolls newly created- Two Masters.- Two Clerks in Court.- A Register.- An Examiner, and a Serjeant at Arms.

Of the Courts of Common Law the Chief is called the Supreme Court.- The Judges of which have all the powers of the King's Bench, Common Pleas and Exchequer in England. This Court sits once every three months at the City of New York, and the practice therein is modelled upon that of the King's Bench at Westminister.- Tho' the judges have the powers of the Court of Exchequer they never proceed upon the Equity side. The Court has no Officers but one Clerk, and is not organized nor supplied with any officers in that Department of the Exchequer, which in England has the care of the revenue. The judges of the Supreme Court hold their offices during the King's Will and Pleasure and are Judges of Nisi prius of Course by act of Assembly, & Annually perform a Circuit through the Counties.- The Decisions of this Court in General are final unless where the Value exceeds £300, Sterling, in which case the subject may be relieved from its errors *only* by an application to the Governor and Council, and where the Value exceeds £500 sterling an appeal lies from the Judgment of the latter to His Majesty in Privy Council.

By an Act of the Legislature of the Province suits are prohibited to be brought in the Supreme Court where the Value demanded does not exceed £20. Currency.

The Clerk's Office of the Supreme Court has always been held as an Appendage to that of the Secretary of the Province.

There is also in each County an Inferior Court of Common Pleas, which has the Cognizance of all actions real, personal & mixed, where the matter in demand is above £5 in value.- The practice of these Courts is a mixture between the King's Bench and Common Pleas at Westminister.- Their Errors are corrected in the first Instance by Writ of Error brought into the Supreme Court; and the Judges hold their offices during pleasure.- The Clerks of these Courts also hold their offices during pleasure and are appointed by the Governor, except the Clerk of Albany who is appointed under the King's Mandate.

Besides these Courts the Justices of peace are by Act of Assembly empowered to try all causes to the amount of £5. Currency, (except where the Crown is concerned or where the Title of Lands shall come into Question;- and Actions of Slander) but the parties may either of them demand a jury of Six Men.- If wrong is done to either party, the person injured may have a Certiorari from the Supreme Court, tho' the remedy is very inadequate.

The Courts of Criminal Jurisdiction are Correspondent to those in England.- The Supreme Court exercises it in the City of New York, as the King's Bench does at Westminister.- The Judges when they go the Circuit have a Commission of Oyer and Terminer and General Goal Delivery; and there are Courts of Sessions held by the Justices of the peace; the powers of which and their proceedings correspond with the like Courts in England.- The Office of the Clerk of the Sessions, is invariably connected with that of the Clerk of the Inferior Court of Common Pleas in the respective Counties.

By acts of the Provincial Legislature the Justices of the Peace have an extraordinary Jurisdiction with repect to some offences by which any three Justices, (one being of the Quorum) and Five Freeholders have power without a Grand or Petty Jury to proceed against and try in a Summary Way, Slaves offending in certain cases, and punish them even with death.

The Duty of His Majesty's Attorney General of the Province is similar to the Duty of that officer in England, and the Master of the Crown Office: He is appointed by the Crown during Pleasure, and His Majesty has no Solicitor General nor Council in the Province, to assist the Attorney General upon any occasion.

There are two other Courts in the Province. The Court of Admiralty which proceeds after the Course of the Civil Law in matters within its Jurisdiction, which has been so enlarged by divers Statutes as in include almost every breach of the Acts of Trade.- From this Court an appeal lies to a Superior Court of Admiralty, lately established in North America by Statute; before this Establishment an appeal only lay to the High Court of Admiralty of England.

The Prerogative Court concerns itself only in the Probate of wills and in matters relating to the Administration of the Estates of Intestates and in granting Licenses of Marriage. The Governor is properly the Judge of this Court but it has been usual for him to act in general by a Delegate.

The Province is at present divided into fourteen Counties, vizt- The City and County of New York- The County of Albany- Richmond (which comprehends the whole of Staten Island) Kings, Queens & Suffolk (which include the whole of Nassau or Long Island) Westchester, Dutchess, Ulster, Orange, Cumberland, Gloucester, Charlotte and Tryon.- For each of these Counties a Sheriff and one or more Coroners are appointed by the Governor who hold their offices during pleasure.

As to the Military power of the Province, the Governor for the time being is the Captain General and Commander in Chief and appoints all the Provincial Military officers during pleasure.

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LETTER OF TRANSMITTAL OF ORIGINAL CONSTITUTION OF 1777

New York ... 12th 1821.

Sir

Your letter of the 30th of June last was duly Received. The Original Constitution of this State in the condition it came to my hands I have delivered pursuant to your Instruction to J. B. Yates Esquire to be forwarded to you to be deposited in the office of the Secretary of State — you will observe that part of the Preamble and the 27th and 28th Sections are wanting in the Manuscript, because they were written on detached Slips of Paper and may yet be recovered, and I will certainly use the greatest diligence for that purpose, so that the venerable instrument may be rendered entire.

I propose the original Drafts of Minutes and Papers of the Provincial Congress, Committee of Safety and Convention in the early part of the

(Letter sent to "John V. N. Yates Esquire, Secretary of State, Albany." New York State Library, Manuscripts and History Library.)

Revolution which came to my possession on the decease of my late brother and have been at much labour and expence in arranging them and transcribing the Minutes - under the Law of 1804 in which you allude I was employed to perform that duty - the task is in a state of forwardness but some impediments arose to prevent or retard its immediate accomplishment — The completion of the work requires the assistance of a skilfull and diligent Clerk and it is not convenient for me to make the necessary advances — It has always been my wish to serve the Public faithfully, and I only request that the means may be placed in my hands

If you have Authority to furnish the means of employing a competent Clerk the work shall be completed with the utmost diligence

I am Sir respectfully
your obed.t Servt
John W. Fisher

J. C. A. Yates Esqr

CONSTITUTION

OF THE

STATE OF NEW YORK,

1777.

51. THIS CONVENTION therefore in the Name & by the Authority of the good People of this State do ordain determine and declare that no Authority shall on any Pretence whatever be exercised over the People or Members of this State but such as shall be derived from and granted by them. 2

2 This Convention with further in me & by the the good us State = lem determine = e that the = islative within this to, shall be vested in two sepa = rate & distinct Bodies of men, the one to be called the Assembly of the State of New York the other to be called the Senate of the State of New York to together shall m the Legisla = ve & quiet once & de ation every the ose

3 AND WHEREAS Laws inconsistant with the Spirit of this Constitution or with the public good may be hast = ily & unadvisedly passed; Be it Ordained that the Governor for the time being, the Chancellor & the Judges of the Supreme Court or any two of them, together with the Governor, shall be and hereby are constituted a Council to revise all Bills about to be passed into Laws by the Legislature: And for that purpose shall assemble themselves from time to time when the Legislature shall be convened; for which however the = ir Services they shall not receive any Sallary or Consideration under any pretence whatever. And that all Bills which have passed the Senate & Assembly shall before they become Laws, be presented to the said Council for their revisal & consideration; and if upon such revision & consideration it should appear improper to the said Council, or a Majority of them, that the said Bill should become a Law of this State, that they return the same together with their Objections to the same in Writing to the House in which it shall have originated who shall cause the Objections sent down by the Council at large in their Minutes & proceed to reconsider the said Bill. But if after such Reconsideration two thirds of the [illegible] House shall notwithstanding the said Objections agree to pass the same

Subjects of this State, shall take an Oath of Allegiance to this State, and Abjure and renounce all Allegiance and Subjection to all & every foreign King, Prince, Potentate and State in all matters ecclesiastical as civil.

By Order

Leonard Gansevoort, Secrt. P.T.

State of New York
Secretary's office }

I hereby Certify that the preceding Original Constitution of this State was this day received from John McKesson Esquire accompanied by the annexed Letter.

Albany August 30. 1821.

J. V. N. Yates
Secretary of State

THE FIRST CONSTITUTION OF NEW YORK, 1777.[1]

In Convention of the Representatives of the State of New York

Kingston, 20th April, 1777.

WHEREAS, The many tyrannical and oppressive usurpations of the King and Parliament of Great Britain, on the rights and liberties of the people of the American colonies, had reduced them to the necessity of introducing a government by congresses and committees, as temporary expedients, and to exist no longer than the grievances of the people should remain without redress.

AND WHEREAS, The congress of the colony of New York did, on the thirty-first day of May, now last past, resolve as follows, *viz.*:

"Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the Crown of Great Britain, existed in full force; and was established for the sole purpose of opposing the usurpation of the British Parliament, and was intended to expire on a reconciliation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain.

"And whereas many and great inconveniences attend the said mode of government by congress and committees, as, of necessity, in many instances, legislative, judicial, and executive powers have been vested therein, especially since the dissolution of the former government by the abdication of the late governor, and the exclusion of this colony from the protection of the King of Great Britain.

"And whereas the Continental Congress did resolve as followeth, to wit:

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[1] This Constitution was adopted April 20, 1777, by the Fourth New York Provincial Congress, a convention of delegates vested with authority to establish a state government. It was not submitted to the people for ratification, but took effect immediately upon its adoption by the Congress. It continued in force until December 31, 1822, when it was superseded by the Constitution framed by the Convention of 1821. An analysis of the Constitution of 1777 is to be found in Lincoln I:589–595. The section headings appearing in the above text in brackets are not in the original but have been derived mainly from Lincoln.

"'Whereas his Britannic majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of Parliament, excluded the inhabitants of these united colonies from the protection of his crown. And whereas, no answers whatever to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain has been, or is likely to be, given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies. And whereas it appears absolutely irreconcilable to reason and good conscience for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies, for the preservation of internal peace, virtue, and good order, as well as for the defense of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies:

"'Therefore,

"'*Resolved*, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.'

"And whereas doubts have arisen, whether this congress are invested with sufficient power and authority to deliberate and determine on so important a subject as the necessity of erecting and constituting a new form of government and internal police, to the exclusion of all foreign jurisdiction, dominion, and control whatever. And whereas it appertains of right solely to the people of this colony to determine the said doubts: Therefore,

"*Resolved*, That it be recommended to the electors in the several counties in this colony, by election in the manner and form prescribed for the election of the present congress, either to authorize (in addition to the powers vested in this congress) their present deputies, or others in the stead of their present deputies, or either of them, to take into consideration the necessity and propriety of instituting such new government as in and by said resolution of the continental congress is described and recommended. And if the majority of the counties, by their deputies in provincial congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to secure the rights, liberties, and happiness of the good people of this colony; and to continue in force until a future peace with Great Britain shall render the same unnecessary; And,

"*Resolved*, That the said elections in the several counties ought to be had on such day, and at such place or places, as by the committee of each county respectively shall be determined. And it is recommended to the said committees to fix such early days for the said elections as that all the deputies to be elected have sufficient time to repair to the city of New York by the second Monday in July next; on which day all the said deputies ought punctually to give their attendance.

"And whereas the object of the foregoing resolutions is of the utmost importance to the good people of this colony.

"*Resolved*, That it be, and it is hereby earnestly recommended to the committees, freeholders, and other electors in the different counties in this colony, diligently to carry the same into execution."

AND WHEREAS, The good people of the said colony, in pursuance of the said resolution, and reposing special trust and confidence in the members of this convention, have appointed, authorized, and empowered them for the purposes, and in the manner, and with the powers in and by the said resolve specified, declared, and mentioned.

AND WHEREAS, The delegates of the United American States, in general congress convened, did, on the fourth day of July now last past, solemnly publish and declare, in the words following, *viz.*:

The Declaration of Independence, 1776.[1]

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of

[1] The Declaration of Independence was adopted by the Continental Congress on July 4, 1776. On July 9, it was ratified by the Fourth New York Provincial Congress, which made the Declaration part of the preamble of this first state constitution framed by it and adopted April 20, 1777.

mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident,—that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these Colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature,—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitutions and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us;

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States;

For cutting off our trade with all parts of the world;

For imposing taxes on us without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments;

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleſe the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these Colonies, solemnly publish and declare, That these United Colonies are, and of

right ought to be, *free and independent States;* that they are absolved from all allegiance to the British crown, and that all political connexion between them and the State of Great Britain, is and ought to be totally dissolved; and that, as *free and independent States*, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which *independent States* may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honour.

JOHN HANCOCK.

GEORGIA.
BUTTON GWINNETT.
LYMAN HALL.
GEO. WALTON.

SOUTH CAROLINA.
EDWARD RUTLEDGE.
THOS. HEYWARD, junr.
THOMAS LYNCH, junr.
ARTHUR MIDDLETON.

VIRGINIA.
GEORGE WYTHE.
RICHARD HENRY LEE.
TH. JEFFERSON.
BENJAN. HARRISON.
THOS. NELSON, JR.
FRANCIS LIGHTFOOT LEE.
CARTER BRAXTON.

DELAWARE.
CAESAR RODNEY.
GEO. READ.
THO. M'KEAN.

NEW JERSEY.
RICHD. STOCKTON.
JNO. WITHERSPOON.
FRAS. HOPKINSON.
JOHN HART.
ABRA. CLARK.

NEW HAMPSHIRE.
JOSIAH BARTLETT.
WM. WHIPPLE.
MATTHEW THORNTON.

RHODE ISLAND AND PROVIDENCE, &C.
STEP. HOPKINS.
WILLIAM ELLERY.

CONNECTICUT.
ROGER SHERMAN.
SAML. HUNTINGTON.
WM. WILLIAMS.
OLIVER WOLCOTT.

NORTH CAROLINA.
WM. HOOPER.
JOSEPH HEWES.
JOHN PENN.

MARYLAND.
SAMUEL CHASE.
WM. PACA.
THOS. STONE.
CHARLES CARROLL of Carrollton.

PENNSYLVANIA.
ROBT. MORRIS.
BENJAMIN RUSH.
BENJA. FRANKLIN.
JOHN MORTON.
GEO. CLYMER.
JAS. SMITH.
GEO. TAYLOR.
JAMES WILSON.
GEO. ROSS.

NEW YORK.
WM. FLOYD.
PHIL. LIVINGSTON.
FRAN'S LEWIS.
LEWIS MORRIS.

MASSACHUSETTS BAY.
SAML. ADAMS.
JOHN ADAMS.
ROBT. TREAT PAINE.
ELBRIDGE GERRY.

Section I

AND WHEREAS, This convention, having taken this declaration into their most serious consideration, did, on the ninth day of July last past, unanimously resolve that the reasons assigned by the Continental Congress for declaring the united colonies free and independent states are cogent and conclusive; and that, while we lament the cruel necessity which has rendered that measure unavoidable, we approve the same, and will, at the risk of our lives and fortunes, join with the other colonies in supporting it.

By virtue of which several acts, declarations, and proceedings, mentioned and contained in the afore-recited resolves or resolutions of the general congress of the United American States, and of the congresses or conventions of this state, all power whatever therein hath reverted to the people thereof, and this convention hath, by their suffrages and free choice, been appointed, and, among other things, authorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this state, most conducive of the happiness and safety of their constituents in particular, and of America in general:

I. [People the only source of authority.]—This convention, therefore, in the name and by the authority of the good people of this state, DOTH ORDAIN, DETERMINE, AND DECLARE, That no authority shall, on any pretense whatever, be exercised over the people or members of this state, but such as shall be derived from and granted by them.

II. [Legislative power vested in senate and assembly.]—This convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That the supreme legislative power within this state shall be vested in two separate and distinct bodies of men: the one to be called the assembly of the state of New York; the other to be called the senate of the state of New York; who, together, shall form the legislature, and meet once, at least, in every year for the despatch of business.

III. [Council of Revision.]—AND WHEREAS, Laws inconsistent with the spirit of this Constitution, or with the public good, may be hastily and unadvisably passed: BE IT ORDAINED, That the governor, for the time being, the chancellor, and the judges of the supreme court, or any two of them, together with the governor,

Section IV

shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature. And for that purpose shall assemble themselves, from time to time, when the legislature shall be convened; for which, nevertheless, they shall not receive any salary or consideration under any pretense whatever. And that all bills which have passed the senate and assembly shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this state, that they return the same, together with their objections thereto in writing, to the senate or house of assembly, in whichsoever the same shall have originated, who shall enter the objections set down by the council, at large, in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, two thirds of the said senate or house of assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and, if approved by two thirds of the members present, shall be a law.

And in order to prevent any unnecessary delays,

BE IT FURTHER ORDAINED, That if any bill shall not be returned by the council within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable, in which case the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said ten days.

IV. [Assembly, how constituted.]—That the assembly shall consist of at least seventy members, to be annually chosen in the several counties, in the proportions following, *viz.:*

For the city and county of New York	Nine.
The city and county of Albany	Ten.
The county of Dutchess	Seven.
The county of Westchester	Six.
The county of Ulster	Six.
The county of Suffolk	Five.
The county of Queens	Four.
The county of Orange	Four.
The county of Kings	Two.

The county of Richmond	Two.
The county of Tryon	Six.
The county of Charlotte	Four.
The county of Cumberland	Three.
The county of Gloucester	Two.

V. [Census; reapportionment of assembly.]—That as soon as the expiration of seven years, subsequent to the termination of the present war, as may be, a census of the electors and inhabitants in this state shall be taken, under the direction of the legislature. And if, on such census, it shall appear that the number of representatives in assembly from the said counties is not justly proportioned to the number of electors in the said counties respectively, that the legislature do adjust and apportion the same by that rule. And further, that once in every seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken; and if it shall thereupon appear that the number of electors in any county shall have increased or diminished one or more seventieth parts of the whole number of electors, which, on the said first census, shall be found in this state, the number of representatives for such county shall be increased or diminished accordingly; that is to say, one representative for every seventieth part, as aforesaid.

VI. [Experiment in elections by ballot.]—AND WHEREAS, An opinion hath long prevailed among divers of the good people of this state, that voting at elections by ballot would tend more to preserve the liberty and equal freedom of the people than voting *viva voce:* to the end, therefore, that a fair experiment be made, which of those two methods of voting is to be preferred:

BE IT ORDAINED, That as soon as may be, after the termination of the present war between the United States of America and Great Britain, an act or acts be passed by the legislature of this state, for causing all elections thereafter to be held in this state for senators and representatives in assembly, to be by ballot, and directing the manner in which the same shall be conducted.

AND WHEREAS, It is possible that, after all the care of the legislature in framing the said act or acts, certain inconveniences and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot:

IT IS FURTHER ORDAINED, That if, after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be

found less conducive to the safety or interest of the state than the method of voting *viva voce,* it shall be lawful and constitutional for the legislature to abolish the same: *Provided,* Two thirds of the members present in each house, respectively, shall concur therein. And further, that during the continuance of the present war, and until the legislature of this state shall provide for the election of senators and representatives in assembly, by ballot, the said election shall be made *viva voce.*

VII. [Qualifications of voters.]—That every male inhabitant of full age, who shall have personally resided within one of the counties of this state for six months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this state: *Provided always,* That every person who is now a freeman of the city of Albany, or who was made a freeman of the city of New York, on or before the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

VIII. [Voters' oath of allegiance.]—That every elector, before he is admitted to vote, shall, if required by the returning officer or either of the inspectors, take an oath, or if of the people called Quakers, an affirmation, of allegiance to the state.

IX. [Powers of assembly.]—That the assembly thus constituted shall choose their own speaker, be judges of their own members, and enjoy the same privileges, and proceed in doing business, in like manner as the assemblies of the colony of New York of right formerly did; and that a majority of the said members shall, from time to time, constitute a house to proceed upon business.

X. [Senate, how constituted.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That the senate of the state of New York shall consist of twenty-four freeholders, to be chosen out of the body of the freeholders, and that they be chosen by the freeholders of this state possessed of freeholds of the value of one hundred pounds, over and above all debts charged thereon.

XI. [Senators' term and classification.]—That the members of the senate be elected for four years, and immediately after the first election, they be divided by lot into four classes, six in each class, and numbered, one, two, three, four; and that the seats of the members of the first class shall be vacated at the expiration of the first year; the second class the second year; and so on continually, to the end that the fourth part of the senate, as nearly as possible, may be annually chosen.

XII. [Senate districts.]—That the election of senators shall be after this manner: that so much of this state as is now parcelled into counties, be divided into four great districts: the southern district to comprehend the city and county of New York, Suffolk, Westchester, Kings, Queens, and Richmond counties; the middle district to comprehend the counties of Dutchess, Ulster, and Orange; the western district, the city and county of Albany, and Tryon county; and the eastern district, the counties of Charlotte, Cumberland, and Gloucester. That the senators shall be elected by the freeholders of the said districts, qualified as aforesaid, in the proportions following, to wit: in the southern district, nine; in the middle district, six; in the western district, six; and in the eastern district, three. AND BE IT ORDAINED, That a census shall be taken as soon as may be, after the expiration of seven years from the termination of the present war, under the direction of the legislature; and if, on such census, it shall appear that the number of senators is not justly proportioned to the several districts, that the legislature adjust the proportion, as near as may be, to the number of freeholders, qualified as aforesaid, in each district. That when the number of electors within any of the said districts shall have increased one twenty-fourth part of the whole number of electors which, by the said census, shall be found to be in this state, an additional senator shall be chosen by the electors of such district. That a majority of the number of senators, to be chosen as aforesaid, shall be necessary to constitute a senate sufficient to proceed upon business; and that the senate shall, in like manner with the assembly, be the judges of its own members. AND BE IT ORDAINED, That it shall be in the power of the future legislatures of this state, for the convenience and advantage of the good people thereof, to divide the same into such further and other counties and districts as shall to them appear necessary.

XIII. [Rights of citizens.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That no member of this state shall be disfranchised, or deprived of any rights or privileges secured to the subjects of this state by this Constitution, unless by the law of the land, or the judgment of his peers.

XIV. [Limitation of adjournment.]—That neither the assembly nor the senate shall have power to adjourn themselves for any longer time than two days, without the mutual consent of both.

XV. [Conference of two houses; executive sessions.]—That, whenever the assembly and senate disagree, a conference shall be held in the presence of both, and be managed by committees, to be by them respectively chosen by ballot. That the doors, both of the senate and assembly, shall at all times be kept open to all persons, except when the welfare of the state shall require their debates to be kept secret. And the journals of all their proceedings shall be kept in the manner heretofore accustomed by the general assembly of the colony of New York; and, except such parts as they shall, as aforesaid, respectively determine not to make public, be, from day to day, if the business of the legislature will permit, published.

XVI. [Limitation of number of members.]—It is, nevertheless, provided, that the number of senators shall never exceed one hundred, nor the members of assembly three hundred; but that, whenever the number of senators shall amount to one hundred, or of the assembly to three hundred, then, and in such case, the legislature shall, from time to time, hereafter, by laws for that purpose, apportion and distribute the said one hundred senators and three hundred representatives among the great districts and counties of this state, in proportion to the number of their respective electors, so that the representation of the good people of this state, both in the senate and assembly, shall forever remain proportionate and adequate.

XVII. [Governor; qualification and term.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That the supreme executive power and authority of this state shall be vested in a governor; and that, statedly, once in every three years, and as often as the seat of government shall become vacant, a wise and discreet freeholder of this state shall be, by ballot, elected governor, by the freeholders of this state, qualified, as before described, to

elect senators, which elections shall be always held at the times and places of choosing representatives in assembly for each respective county; and that the person who hath the greatest number of votes within the said state shall be governor thereof.

XVIII. [Governor's general powers.]—That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander in chief of all the militia, and admiral of the navy, of this state; that he shall have power to convene the assembly and senate on extraordinary occasions; to prorogue them from time to time, provided such prorogation shall not exceed sixty days in the space of any one year; and, at his discretion, to grant reprieves and pardons to persons convicted of crimes other than treason or murder, in which he may suspend the execution of the sentence until it shall be reported to the legislature, at their subsequent meeting, and they shall either pardon or direct the execution of the criminal, or grant a further reprieve.

XIX. [Governor's duties.]—That it shall be the duty of the governor to inform the legislature, at every session, of the condition of the state, so far as may respect his department; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare, and prosperity; to correspond with the Continental Congress, and other states; to transact all necessary business with the officers of government, civil and military; to take care that the laws are faithfully executed, to the best of his ability; and to expedite all such measures as may be resolved upon by the legislature.

XX. [Lieutenant governor; qualification and term.]—That a lieutenant governor shall, at every election of a governor, and as often as the lieutenant governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor; and such lieutenant governor shall, by virtue of his office, be president of the senate, and upon an equal division, having a casting vote in their decisions, but not vote on any other occasion.

And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the lieutenant governor shall exercise all the power and authority appertaining to the office of governor, until another be chosen, or the governor absent or impeached shall return, or be acquitted. *Provided*, That where the governor shall, with the consent of the

legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of this state, both by sea and land.

XXI. [When president of senate to act as governor.]—That whenever the government shall be administered by the lieutenant governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy of the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall, in like manner as the lieutenant governor, administer the government until others shall be elected by the suffrage of the people, at the succeeding election.

XXII. [State treasurer.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That the treasurer of this state shall be appointed by act of the legislature, to originate with the assembly.

Provided, That he shall not be elected out of either branch of the legislature.

XXIII. [Officers, how appointed.] — That all officers other than those who, by this Constitution, are directed to be otherwise appointed, shall be appointed in the manner following, to wit: The assembly shall, once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council for the appointment of the said officers, of which the governor for the time being, or the lieutenant governor, or the president of the senate (when they shall respectively administer the government), shall be president, and have a casting voice, but no other vote, and, with the advice and consent of the said council, shall appoint all of the said officers; and that a majority of the said council be a quorum; AND FURTHER, The said senators shall not be eligible to the said council for two years successively.

XXIV. [Officers' commissions; terms of judicial officers.] — That all military officers be appointed during pleasure; that all commissioned officers, civil and military, be commissioned by the governor; and that the chancellor, the judges of the supreme court, and first judge of the county court in every county, hold their

offices during good behavior, or until they shall have respectively attained the age of sixty years.

XXV. [When judge not to hold other office.]—That the chancellor and judges of the supreme court shall not, at the same time, hold any other office, excepting that of delegate to the general Congress, upon special occasions; and that the first judges of the county courts in the several counties shall not, at the same time, hold any other office, excepting that of senator, or delegate to the general Congress. But if the chancellor or either of the said judges be elected or appointed to any other office, excepting as is before excepted, it shall be at his option in which to serve.

XXVI. [Sheriffs and coroners.]—That sheriffs and coroners be annually appointed; and that no person shall be capable of holding either of the said offices more than four years successively; nor the sheriff of holding any other office at the same time.

XXVII. [Registers, clerks, marshals, attorneys.]—AND BE IT FURTHER ORDAINED, That the register and clerks in chancery be appointed by the chancellor; the clerks of the supreme court, by the judges of the said court; the clerk of the the court of probates, by the judge of the said court; and the register and marshal of the court of admiralty, by the judge of the admiralty. The said marshal, registers, and clerks to continue in office during the pleasure of those by whom they are to be appointed as aforesaid.

And all attorneys, solicitors, and counsellors at law, hereafter to be appointed, be appointed by the court, and licensed by the first judge of the court in which they shall respectively plead or practise; and be regulated by the rules and orders of the said courts.

XXVIII. [Duration of office.]—AND BE IT FURTHER ORDAINED, That where, by this Constitution, the duration of any office shall not be ascertained, such office shall be construed to be held during the pleasure of the Council of Appointment: *Provided*, That new commissions shall be issued to judges of the county courts (other than to the first judge), and to justices of the peace, once at the least in every three years.

XXIX. [Certain town and county officers.]—The town clerks, supervisors, assessors, constables, and collectors, and all other officers, heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by the present or future acts of legislature.

That loan officers, county treasurers, and clerks of the supervisors, continue to be appointed in the manner directed by the present or future acts of the legislature.

XXX. [Congressional delegates, how chosen.]—That delegates to represent this state in the general Congress of the United States of America be annually appointed, as follows, to wit: The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of delegates to be appointed; after which nomination they shall meet together, and those persons named in both lists shall be delegates; and out of those persons whose names are not on both lists, one half shall be chosen by the joint ballot of the senators and members of assembly, so met together as aforesaid.

XXXI. [Enacting clause; writs in name of people.]—That the style of all laws shall be as follows, to wit: "Be it enacted by the people of the state of New York, represented in senate and assembly," and that all writs and other proceedings shall run in the name of the people of the state of New York, and be tested in the name of the chancellor, or chief judge of the court from whence they shall issue.

XXXII. [Court of impeachments; court of errors.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That a court shall be instituted for the trial of impeachments and the correction of errors, under the regulations which shall be established by the legislature, and to consist of the president of the senate for the time being, and the senators, chancellor, and judges of the supreme court, or the major part of them; except that when an impeachment shall be prosecuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal; and in like manner, when an appeal from a decree in equity shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error, on a question of law, on a judgment in the supreme court, the judges of the court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

XXXIII. [Impeachment by assembly.]—That the power of impeaching all officers of the state, for mal and corrupt conduct in

their respective offices, be vested in the representatives of the people in assembly; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. That, previous to the trial of every impeachment, the members of the said court shall respectively be sworn, truly, and impartially to try and determine the charge in question, according to evidence; and that no judgment of the said court shall be valid unless it shall be assented to by two third parts of the members then present; nor shall it extend farther than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this state. But the party so convicted shall be, nevertheless, liable and subject to indictment, trial, judgment, and punishment, according to the laws of the land.

XXXIV. [Accused may have counsel.]—AND IT IS FURTHER ORDAINED, That in every trial on impeachment, or indictment for crimes or misdemeanor, the party impeached or indicted shall be allowed counsel, as in civil actions.

XXXV. [Common law continued.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this state, subject to such alterations and provisions as the legislature of this state shall, from time to time, make concerning the same. That such of the said acts as are temporary shall expire at the times limited for their duration respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of Christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives claimed or exercised by, the King of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this Constitution, be and they hereby are, abrogated and rejected. And this convention doth further ORDAIN, That the resolves or resolutions of the congresses of the colony of New York, and of the convention of the state of New York, now in force, and not repugnant

to the government established by this Constitution, shall be considered as making part of the laws of this state; subject, nevertheless, to such alterations and provisions as the legislature of this state may, from time to time, make concerning the same.

XXXVI. [Royal grants and charters.]—AND BE IT FURTHER ORDAINED, That all grants of land within this state, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but that nothing in this Constitution contained shall be construed to affect any grants of land, within the state, made by the authority of the said King or his predecessors, or to annul any charters to bodies politic, by him or them, or any of them, made prior to that day. And that none of the said charters shall be adjudged to be void by reason of any nonuser or misuser of any of their respective rights or privileges, between the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five, and the publication of this Constitution. AND FURTHER, That all such of the officers, described in the said charters respectively, as, by the terms of the said charters, were to be appointed by the governor of the colony of New York, with or without the advice and consent of the council of the said King, in the said colony, shall henceforth be appointed by the council established by this Constitution for the appointment of officers in this state, until otherwise directed by the legislature.

XXXVII. [Purchase of Indian lands limited.]—AND WHEREAS, It is of great importance to the safety of this state that peace and amity with the Indians within the same be at all times supported and maintained: AND WHEREAS, The frauds too often practiced towards the said Indians, in contracts made for their lands, have, in divers instances, been productive of dangerous discontents and animosities; BE IT ORDAINED, That no purchases or contracts for the sale of lands made since the 14th day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said Indians, within the limits of this state, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this state.

XXXVIII. [Religious toleration.]—AND WHEREAS, We are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual op-

pression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind; this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this state to all mankind: *Provided*, That the liberty of conscience hereby granted shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

XXXIX. [Clergymen not eligible to office.]—AND WHEREAS, The ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall, at any time hereafter, under any pretense or description whatever, be eligible to or capable of holding, any civil or military office or place within this state.

XL. [Militia.]—AND WHEREAS, It is of the utmost importance to the safety of every state that it should always be in a condition of defense; and it is the duty of every man who enjoys the protection of society, to be prepared and willing to defend it; this convention, therefore, in the name, and by the authority of the good people of this state, doth ORDAIN, DETERMINE, AND DECLARE, That the militia of this state, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this state (being of the people called Quakers) as, from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature, and do pay to the state such sums of money, in lieu of their personal service, as the same may, in the judgment of the legislature, be worth. And that a proper magazine of warlike stores, proportioned to the number of inhabitants, be forever hereafter, at the expense of this state, and by acts of the legislature, established, maintained, and continued, in every county in this state.

XLI. [Trial by jury preserved.]—And this convention doth further ORDAIN, DETERMINE, AND DECLARE, in the name, and by the authority of the good people of this state, that trial by jury, in all cases in which it hath heretofore been used in the colony of New York, shall be established, and remain inviolate forever. And

that no acts of attainder shall be passed by the legislature of this state, for crimes other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood. AND FURTHER, That the legislature of this state shall, at no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

XLII. [Naturalization.]—And this convention doth further, in the name and by the authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, That it shall be in the discretion of the legislature to naturalize all such persons, and in such manner, as they shall think proper: *Provided*, all such of the persons so to be by them naturalized, as, being born in parts beyond sea, and out of the United States of America, shall come to settle in, and become subjects of, this state, shall take an oath of allegiance to this state, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and state, in all matters, ecclesiastical as well as civil. By order:

LEONARD GANSEVOORT, *Pres. pro. tem.*

THE CONSTITUTION OF THE STATE OF NEW YORK.

Adopted November 3, 1846.

AS AMENDED* AND IN FORCE JANUARY 1, 1876

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* Amendments are discussed in Flick, Alexander, History of New York State, Vol. 7 (1867-1876).

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WE THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I.

SECTION 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizens thereof, unless by the law of the land, or the judgment of his peers.

SEC. 2. The trial by jury in all cases in which it has been heretofore used, shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

SEC. 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this State may keep, with the consent of Congress in time of peace; and in cases of petit larceny, under the regulation of the Legislature,) unless on presentment or indictment of a grand jury; and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.

SEC. 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.

SEC. 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 9. The assent of two-thirds of the members elected to each branch of the Legislature, shall be required to every bill appropriating the public moneys or property for local or private purposes.

SEC.10. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof, nor shall any divorce be granted, otherwise than by due judicial proceedings; nor shall any lottery hereafter be authorized or any sale of lottery tickets allowed within this State.

SEC.11. The people of this State, in their right of sovereignty are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.

SEC.12. All feudal tenures of every description, with all their incidents are declared to be abolished, saving however all rents and services certain which at any time heretofore have been lawfully created or reserved.

SEC.13. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

SEC.14. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

SEC.15. All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land, hereafter to be made, shall be void.

SEC.16. No purchase or contract for the sale of lands in this State made since the fourteenth day of October, one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

SEC.17. Such parts of the common law, and of the acts of the Legislature of the Colony of New York, as together did form the law of the said Colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said Colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be

and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated; and the Legislature, at its first session after the adoption of this Constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this State, or so much and such parts therof as to the said commissioners shall seem practicable and expedient. And the said commissioners shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the Legislature, when called upon to do so; and the Legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of the said commissioners, and shall also provide for the publication of the said code, prior to its being presented to the Legislature for adoption.

SEC. 18. All grants of land within this State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

ARTICLE II.

*SECTION 1. Every male citizen of the age of twenty-one years who shall have been a citizen for ten days and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided what in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

* As amended by vote of the people, Nov. 3,1874.

*SEC. 2. No person who shall receive, expect or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.

SEC. 4. Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

ARTICLE III.

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly.

SEC. 2. The Senate shall consist of thirty-two members, and the Senators shall be chosen for two years. The Assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

SEC. 3. The State shall be divided into thirty-two districts, to be called Senate districts, each of which shall choose one Senator. The districts shall be numbered from one to thirty-two, inclusive.*

District number One (1) shall consist of the counties of Suffolk, Richmond and Queens.

District number Two (2) shall consist of the county of Kings.

*For existing Senate districts, see Chapter 805, Laws of 1866.

District number Three (3), number Four (4), number Five (5), and number Six (6) shall consist of the city and county of New York. And the board of supervisors of said city and county shall, on or before the first day of May, one thousand eight hundred and forty-seven, divide the said city and county into the number of Senate districts, to which it is entitled, as near as may be of an equal number of inhabitants, excluding aliens and persons of color not taxed, and consisting of convenient and contiguous territory; and no Assembly district shall be divided in the formation of a Senate district. The board of supervisors, when they shall have completed such division, shall cause certificates thereof, stating the number and boundaries of each district and the population thereof, to be filed in the office of the Secretary of State, and of the clerk of said city and county.

District number Seven (7) shall consist of the counties of Westchester, Putnam and Rockland.

District number Eight (8) shall consist of the counties of Dutchess and Columbia.

District number (9) shall consist of the counties of Orange and Sullivan.

District number Ten (10) shall consist of the counties of Ulster and Greene.

District number Eleven (11) shall consist of the counties of Albany and Schenectady.

District number Twelve (12) shall consist of the county of Rensselaer.

District number Thirteen (13) shall consist of the counties of Washington and Saratoga.

District number Fourteen (14) shall consist of the counties of Warren, Essex and Clinton.

District number Fifteen (15) shall consist of the counties of St. Lawrence and Franklin.

District number Sixteen (16) shall consist of the counties of Herkimer, Hamilton, Fulton and Montgomery.

District number Seventeen (17) shall consist of the counties of Schoharie and Delaware.

District number Eighteen (18) shall consist of the counties of Otsego and Chenango.

District number Nineteen (19) shall consist of the county of Oneida.

District number Twenty (20) shall consist of the counties of Madison and Oswego.

District number Twenty-one (21) shall consist of the counties of Jefferson and Lewis.

District number Twenty-two (22) shall consist of the county of Onondaga.

District number Twenty-three (23) shall consist of the counties of Cortland, Broome and Tioga.

District number Twenty-four (24) shall consist of the counties of Cayuga and Wayne.

District number Twenty-five (25) shall consist of the counties of Tompkins, Seneca and Yates.

District number Twenty-six (26) shall consist of the counties of Steuben and Chemung.

District number Twenty-seven (27) shall consist of the county of Monroe.

District number Twenty-eight (28) shall consist of the counties of Orleans, Genesee and Niagara.

District number Twenty-nine (29) shall consist of the counties of Ontario and Livingston.

District number Thirty (30) shall consist of the counties of Allegany and Wyoming.

District number Thirty-one (31) shall consist of the county of Erie.

District number Thirty-two (32) shall consist of the counties Chautauqua and Cattaraugus.

SEC. 4. An enumeration of the inhabitants of the State shall be taken, under the direction of the Legislature, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the Legislature, at the first session after the return of every enumeration, that each Senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and persons of color not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a Senate district, except such county shall be equitably entitled to two or more senators.

*SEC. 5. The Assembly shall consist of one hundred and twenty-eight members, elected for one year. The Members of Assembly shall be apportioned among the several counties of the State, by the Legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and shall be chosen by single districts.** The Assembly districts shall remain as at present organized, until after the enumeration of the inhabitants of the State, in the year eighteen hundred and seventy-five. The Legislature, at its first session after the return of every enumeration, shall apportion the Members of Assembly among the several counties of the State, in manner aforesaid, and the board of supervisors in such counties as may be entitled under such apportionment, to more than one member, except the city and county of New York, and in said city and county the board of aldermen of said city shall assemble at such time as the Legislature making such apportionment shall prescribe, and divide their respective counties into Assembly districts, each of which districts shall consist of convenient and contiguous territory, equal to the number of members of Assembly to which such counties shall be entitled, and shall cause to be filed in the offices of the Secretary of State and the clerks of their respective counties a description of such districts, specifying the number of each district and the population thereof, according to the last preceding enumeration as near as can be ascertained, and the apportionment and districts shall remain unaltered until another

* As amended by vote of the people, November 3, 1874.

** For existing Assembly Districts, see chapter 607, Laws of 1866.

enumeration shall be made as herein provided. No town shall be divided in the formation of Assembly districts. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the Assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member. But the Legislature may abolish the said county of Hamilton, and annex the territory thereof to some other county or counties. Nothing in this section shall prevent division at any time of counties and towns, and the erection of new towns and counties by the Legislature.

*SEC. 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, one in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

*SEC. 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

*SEC. 8. No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government; and if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

SEC. 9. The elections of Senators and Members of Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

SEC. 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members, shall choose its own officers; and the Senate shall choose a temporary president, when the Lieutenant-Governor shall not attend as president, or shall act as Governor.

SEC. 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public

* As amended by vote of the people, Nov. 3, 1874.

welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

SEC.12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

SEC.13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

SEC.14. The enacting clause of all bills shall be, "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

SEC.15. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the Legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

SEC.16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

*SEC.17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

SEC.18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the

* Sections 17 to 25, both inclusive, added by vote of the people Nov. 3, 1874.

owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the supreme court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

SEC.19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

SEC.20. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object of which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

SEC.21. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

SEC.22. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

SEC.23. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the legislature may from time to time deem expedient.

SEC.24. The Legislature shall not, nor shall the common council of any city nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

SEC.25. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the Legislature by Commissioners who have been appointed pursuant to law to revise the Statutes.

ARTICLE IV.

*SECTION 1. The executive power shall be vested in a Governor, who shall hold his office for three years; a Lieutenant-Governor shall be chosen at the same time and for the same term. The

* As amended by vote of the people, Nov. 3, 1874.

Governor and Lieutenant-Governor elected next preceding the the time when this section shall take effect shall hold office during the term for which they were elected.

*SEC. 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years, next preceding his election, a resident of this State.

SEC. 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor the two houses of the Legislature, at its next annual session, shall, forthwith, by joint-ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

*SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature (or the Senate only) on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

SEC. 5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulation as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

SEC. 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with

* As amended by vote of the people, Nov. 3, 1874.

the consent of the Legislature, be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

SEC. 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president of the Senate shall act as Governor until the vacancy be filled, or the disability shall cease.

*SEC. 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite for any duty or service he may be required to perform by the Constitution or by law.

*SEC. 9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house agree to pass the bill, it shall be sent together with the objections to the other house by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in

* As amended by vote of the people, November 3, 1874.

relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

ARTICLE V.

SECTION 1. The Secretary of State, Comptroller, Treasurer and Attorney-General shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this article named (except the Speaker of the Assembly) shall, at stated times during his continuance in office, receive for his services, a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, to his use, any fees or perquisites of office, or other compensation.

SEC. 2. A State Engineer and Surveyor shall be chosen at a general election, and shall hold his office two years, but no person shall be elected to said office who is not a practical engineer.

SEC. 3. Three Canal Commissioners shall be chosen at the general election which shall be held next after the adoption of this Constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The Commissioners of the Canal Fund shall meet at the Capitol on the first Monday of January, next after such election, and determine by lot which of said Commissioners shall hold his office for one year, which for two, and which for three years; and there shall be elected annually, thereafter, one Canal Commissioner, who shall hold his office for three years.

SEC. 4. Three inspectors of State Prisons shall be elected at the general election which shall be held next after the adoption of this Constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The Governor, Secretary of State, and Comptroller, shall meet at the Capitol on the first Monday of January next succeeding such election, and determine by lot which of said inspectors shall hold his office for one year, which for two, and which for three years; and there shall be elected annually thereafter, one inspector of State Prisons, who shall hold his office for three years: said inspectors shall have the charge and superintendence of the State Prisons, and shall appoint all the officers therein. All vacancies in the office of such inspector shall be filled by the Governor, till the next election.

SEC. 5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General, and State Engineer and Surveyor, shall be the Commissioners of the Land Office. The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer, and Attorney-General, shall be the Commissioners of the Canal Fund. The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Canal Commissioners.

SEC. 6. The powers and duties of the respective Boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

SEC. 7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office, during such suspension of the Treasurer.

SEC. 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained, shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls, or purchases or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

ARTICLE VI.

[Article 6 of the Constitution (except section 28) was framed by delegates elected April 23, 1867, under chapter 194, Laws of 1867, to a Constitutional Convention (convened pursuant to section 2 of article 13 of the Constitution, by vote of the people at the general election held November 6, 1866), which Convention met in the city of Albany, June 4, 1867, and adjourned February 28, 1868.

Article 6 (except section 28) was submitted separately to the people, pursuant to chapter 318, Laws of 1869, at the general election held November 2, 1869, and declared ratified and adopted by the Board of State Canvassers, by certificate of determination, dated December 6, 1869, the official vote thereon, as declared, standing, "for the amended judiciary article," 247,240 votes, and "against the amended judiciary article," 240,442 votes.]

SECTION 1. The Assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The court for the trial of impeachments shall be composed of the President of the Senate, the Senators, or a major part of them, and the Judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy

any office of honor, trust, or profit, under this State; but the party impeached shall be liable to indictment and punishment according to law.

SEC. 2. There shall be a Court of Appeals, composed of a Chief Judge and six associate Judges, who shall be chosen by the electors of the State, and shall hold their office for the term of fourteen years from and including the first day of January next after their election. At the first election of judges, under this Constitution, every elector may vote for the Chief and only four of the associate Judges. Any five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have the appointment, with the power of removal, of its reporter and clerk, and of such attendants as may be necessary.

SEC. 3. When a vacancy shall occur, otherwise than by expiration of term, in the office of Chief or Associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not, the Governor alone, may appoint to fill such vacancy. If any such appointment of Chief Judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed Chief Judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as Chief Judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

SEC. 4. Upon the organization of the Court of Appeals, under this article, the causes then pending in the present Court of Appeals shall become vested in the Court of Appeals hereby established. Such of said causes as are pending on the first day of January, eighteen hundred and sixty-nine, shall be heard and determined by a Commission, to be composed of five Commissioners of Appeals, four of whom shall be necessary to constitute a quorum; but the Court of Appeals hereby established may order any of said causes to be heard therein. Such Commission shall be composed of the Judges of the present Court of Appeals, elected or appointed thereto, and a fifth Commissioner who shall be appointed by the Governor by and with the advice and consent of the Senate; or, if the Senate be not in session, by the Governor; but in such case, the appointment shall expire at the end of the next session.

SEC. 5. If any vacancy shall occur in the office of the said Commissioners, it shall be filled by appointment by the Governor by and with the advice and consent of the Senate; or if the Senate is not in session, by the Governor; but in such case, the appointment shall expire at the end of the next session. The

Commissioners shall appoint, from their number, a Chief Commissioner; and may appoint and remove such attendants as may be necessary. The reporter of the Court of Appeals shall be the reporter of said Commission. The decisions of the Commission shall be certified to, and entered and enforced, as the judgments of the Court of Appeals. The Commission shall continue until the causes committed to it are determined, but not exceeding three years; and all causes then undetermined shall be heard by the Court of Appeals.

SEC. 6. There shall be the existing Supreme Court, with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law; and it shall be composed of the justices now in office, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the State are continued until changed pursuant to this section.* Five of the justices shall reside in the district in which is the city of New York, and four in each of the other districts. The Legislature may alter the districts, without increasing the number, once after every enumeration, under this Constitution, of the inhabitants of the State.

SEC. 7. At the first session of the Legislature, after the adoption of this article, and from time to time thereafter as may be necessary, but not oftener than once in five years, provisions shall be made for organizing, in the Supreme Court, not more than four general terms thereof, each to be composed of a presiding justice, and not more than three other justices, who shall be designated, according to law, from the whole number of justices. Each presiding justice shall continue to act as such during his term of office. Provision shall be made be law for holding the general terms in each judicial district. Any justice of the Supreme Court may hold special terms and Circuit Courts, and may preside in Courts of Oyer and Terminer, in any county.

SEC. 8. No judge or justice shall sit, at a general term of any court, or in the Court of Appeals, in review of a decision made by him, or by any court of which he was at the time, a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and equity that they have heretofore exercised.

SEC. 9. When a vacancy shall occur, otherwise than by expiration of term, in the office of Justice of the Supreme Court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until any vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session, the Governor may appoint to fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

SEC. 10. The Judges of the Court of Appeals, and the Justices of the Supreme Court, shall not hold any other office or public trust.

* See chapter 241, Laws of 1847, and chapter 485, Laws of 1857, for existing Judicial Districts.

All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

SEC.11. Judges of the Court of Appeals, and Justices of the Supreme Court, may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All judicial officers, except those mentioned in this section, and except Justices of the Peace and Judges and Justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no removal shall be made, by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him, and shall have had an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal.

SEC.12. The Superior Court of the city of New York, the Court of Common Pleas for the city and county of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are continued with the powers and jurisdiction they now severally have, and such further civil and criminal jurisdiction as may be conferred by law. The Superior Court of New York shall be composed of the six judges in office at the adoption of this article, and their successors; the Court of Common Pleas of New York, of the three judges then in office, and their successors, and three additional judges; the Superior Court of Buffalo, of the judges now in office and their successors; and the City Court of Brooklyn, of such number of judges, not exceeding three, as may be provided by law. The Judges of said Courts, in office at the adoption of this article, are continued until the expiration of their terms. A Chief Judge shall be appointed by the judges of each of said courts, from their own number, who shall act as such during his official term. Vacancies in the office of the judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the Supreme Court. The Legislature may provide for detailing judges of the Superior Court and Court of Common Pleas of New York, to hold circuits or special terms of the Supreme Court in that city, as the public interest may require.

SEC.13. Justices of the Supreme Court shall be chosen by the electors of their respective judicial districts. Judges of all the courts mentioned in the last preceding section shall be chosen by the electors of the cities respectively in which the said courts are instituted. The official terms of the said justices and judges who shall be elected after the adoption of this article shall be fourteen years from and including the first day of January next after their election. But no person shall hold the office of justice or judge of any court longer than until and including the last day of December next after he shall be seventy years of age.

SEC.14. The judges and justices hereinbefore mentioned shall receive for their services a compensation to be established by law, which shall not be diminished during their official terms.

Except the Judges of the Court of Appeals and the Justices of the Supreme Court, they shall be paid, and the expenses of their courts defrayed, by the cities or counties in which such courts are instituted, as shall be provided by law.

SEC.15. The existing county courts are continued, and the judges thereof in office at the adoption of this article, shall hold their offices until the expiration of their respective terms. Their successors shall be chosen by the electors of the counties, for the term of six years. The County Courts shall have the powers and jurisdiction they now possess, until altered by the legislature. They shall also have original jurisdiction in all cases where the defendants reside in the county and in which the damages claimed shall not exceed one thousand dollars; and also such appellate jurisdiction as shall be provided by law, subject, however, to such provision as shall be made by law for the removal of causes into the Supreme Court. They shall also have such other original jurisdiction as shall, from time to time, be conferred upon them by the Legislature. The county Judge, with two Justices of the Peace, to be designated according to law, may hold Courts of Sessions, with such criminal jurisdiction as the Legislature shall prescribe, and he shall perform such other duties as may be required by law. His salary, and the salary of the Surrogate when elected as a separate officer, shall be established by law, payable out of the County Treasury, and shall not be diminished during his term of office. The Justices of the Peace shall be paid, for services in Courts of Sessions, a per diem allowance out of the County Treasury. The County Judge shall also be Surrogate of his county; but in counties having a population exceeding forty thousand, the Legislature may provide for the election of a separate officer to be Surrogate, whose term of office shall be the same as that of the County Judge. The County Judge of any county may preside at Courts of Sessions, or hold County Courts, in any other county, except New York and Kings, when requested by the judge of such other county.

SEC.16. The Legislature may, on application of the Board of Supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

SEC.17. The Legislature shall provide for submitting to the electors of the State, at the general election in the year eighteen hundred and seventy-three, two questions, to be voted upon on separate ballots, as follows: First, "Shall the offices of Chief Judge and Associate Judge of the Court of Appeals, and of Justice of the Supreme Court, be hereafter filled by appointment?"* If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled by appointment by the Governor by and with the advice and consent of the Senate; or if the Senate be not in

* Submitted to vote of the people, November 4, 1873- pursuant to chap. 314, Laws of 1873, -and determined in the negative.

session, by the Governor; but in such case, he shall nominate to the Senate when next convened, and such appointment by the Governor alone shall expire at the end of that session. Second, "Shall the offices of the judges mentioned in sections twelve and fifteen of article six of the Constitution, be hereafter filled by appointment?"* If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but as vacancies occur, they shall be filled in the manner in this section above provided.

SEC.18. The electors of the several towns shall, at their annual town meeting, and in such manner as the Legislature may direct, elect Justices of the Peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the Peace, and Judges or Justices of inferior courts not of record and their clerks, may be removed, after due notice and an opportunity of being heard by such courts as may be prescribed by law, for causes to be assigned in the order of removal. Justices of the Peace and district court Justices shall be elected in the different cities of this State, in such manner, and with such powers, and for such terms, respectively, as shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of cities, or appointed by some local authorities thereof.

SEC.19. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature; and, except as herein otherwise provided, all judicial officers shall be elected or appointed at such times, and in such manner, as the Legislature may direct.

SEC.20. Clerks of the several counties shall be Clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Clerk of the Court of Appeals shall keep his office at the seat of government. His compensation shall be fixed by law and paid out of the public treasury.

SEC.21. No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office; nor shall any Judge of the Court of Appeals, Justice of the Supreme Court, or Judge of a Court of Record in the cities of New York, Brooklyn or Buffalo, practice as an attorney or counselor in any court of record in this State, or act as referee.

SEC.22. The Legislature may authorize the judgments, decrees and decisions of any court of record of original civil jurisdiction, established in a city, to be removed for review, directly into the Court of Appeals.

* Submitted to vote of the people, November 4, 1873- pursuant to chap. 314, Laws of 1873,- and determined in the negative.

SEC. 23. The Legislature shall provide for the speedy publication of all Statutes, and also for the Appointment by the Justices of the Supreme Court designated to hold general terms, of a reporter of the decisions of that court. All laws and judicial decisions shall be free for publication by any person.

SEC. 24. The first election of judges of the Court of Appeals, and of the three additional judges of the Court of Common Pleas for the city and county of New York, shall take place on such day, between the first Tuesday of April and the second Tuesday in June next after the adoption of this article, as may be provided by law. The Court of Appeals, the Commissioners of Appeals, and the additional judges of the said Court of Common Pleas, shall repectively enter upon their duties on the first Monday of July thereafter.

SEC. 25. Surrogates, Justices of the Peace, and local judicial officers provided for in section sixteen, in office when this article shall take effect, shall hold their respective offices until the expiration of their terms.

SEC. 26. Courts of special sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

SEC. 27. For the relief of Surrogates' Courts, the Legislature may confer upon Courts of Record, in any county having a population exceeding four hundred thousand, the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate causes.

*SEC. 28. The Court of Appeals may order any of the causes, not exceeding five hundred in number, pending in that court at the time of the adoption of this provision, to be heard and determined by the Commissioners of Appeals, and the Legislature may extend the term of service of the Commissioners of Appeals, not exceeding two years.**

ARTICLE VII.

SECTION 1. After paying the expenses of collection, superintendence and ordinary repairs, there shall be appropriated and set apart in each fiscal year out of the revenues of the State Canals, in each year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of one million and three hundred thousand dollars until the first day of June, one thousand eight hundred and fifty-five, and from that time the sum of one million and seven hundred thousand dollars in each fiscal year, as a sinking fund to pay the interest and redeem the principal of that part of the State debt called the Canal debt, as it existed at the time first aforesaid, and including three hundred thousand dollars then to be borrowed, until the same shall be wholly paid; and the principal and income of the said sinking fund shall be sacredly applied to that purpose.

SEC. 2. After complying with the provisions of the first section of this article, there shall be appropriated and set apart out of the surplus revenues of the State Canals, in each fiscal

* Section 28, added by vote of the poeple, Nov. 5, 1872.

** Term of service of Commissioners of Appeals extended to July 1, 1875, by chap. 3, Laws of 1873.

year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of three hundred and fifty thousand dollars until the time when a sufficient sum shall have been appropriated and set apart, under the said first section, to pay the interest and extinguish the entire principal of the Canal debt; and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the General Fund Debt, including the debt for loans of the State credit to railroad companies which have failed to pay the interest thereon, and also the contingent debt on State stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever and as far as any part thereof may become a charge on the Treasury or General Fund, until the same shall be wholly paid; and the principal and income of the said last-mentioned sinking fund shall be sacredly applied to the purpose aforesaid; and if the payment of any part of the moneys to the said sinking fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon, at the then current rate, shall be paid to the last-mentioned sinking fund, as soon as it can be done consistently with the just rights of the creditors holding said Canal Debt.

*SEC. 3. After paying the said expenses of collection, superintendence and repairs of the Canals, and the sums appropriated by the first and second sections of this article, there shall be appropriated and set apart in each fiscal year, out of the surplus revenues of the Canals, as a sinking fund, a sum sufficient to pay the interest as it falls due, and extinguish the principal within eighteen years of any loan made under this section, and if the said sinking fund shall not be sufficient to redeem any part of the principal at the stipulated times of payment, or to pay any part of the interest of such loans as stipulated, the means to satisfy any such deficiency shall be procured on the credit of the said sinking fund. After complying with the foregoing provisions, there shall be paid annually out of the said revenues into the Treasury of the State two hundred thousand dollars, to defray the necessary expenses of government. The remainder shall, in each fiscal year, be applied to meet appropriations for the enlargement and completion of the Canals mentioned in this section, until the said Canals shall be completed. In each fiscal year thereafter the remainder shall be disposed of in such manner as the Legislature may direct, but shall at no time be anticipated or pledged for more than one year in advance. The Legislature shall annually, during the next four years, appropriate to the enlargement of the Erie, the Oswego, the Cayuga and Seneca canals, and to the completion of the Black River and Genesee Valley canals, and for the enlargement of the locks of the Champlain canal, whenever, from dilapidation or decay it shall

* Section 3, as amended by vote of the people, February 15, 1854, and November 3, 1874.

be necessary to rebuild them, a sum not exceeding two millions two hundred and fifty thousand dollars. The remainder of the revenues of the Canals for the current fiscal year in which such appropriation is made, shall be applied to meet such appropriation; and if the same shall be deemed insufficient, the Legislature shall at the same session provide for the deficiency by loan. The Legislature shall also borrow one million and five hundred thousand dollars to refund to the holders of the Canal revenue certificates issued under the provisions of chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, the amount received into the Treasury thereon. But no interest to accrue after July first, one thousand eight hundred and fifty-five, shall be paid on such certificates. The provisions of section twelve of this article requiring every law for borrowing money to be submitted to the people, shall not apply to the loans authorized by this section. No part of the revenues of the Canals or of the funds borrowed under this section, shall be paid or applied upon or in consequence of any alleged contract made under chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, except to pay for work done or materials furnished prior to the first day of June, one thousand eight hundred and fifty-two. The rates of toll on persons and property transported on the Canals shall not be reduced below those for the year one thousand eight hundred and fifty-two, except by the Canal Board, with the concurrence of the Legislature. All contracts for work or materials on any Canal shall be made with the person who shall offer to do or provide the same at the lowest price, with adequate security for their performance.

*No extra compensation shall be made to any contractor, but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the Canal Board may, upon the application of the contractor, cancel such contract.

SEC. 4. The claims of the State against any incorporated company to pay the interest and redeem the principal of the stock of the State loaned or advanced to such company, shall be fairly enforced, and not released or compromised; and the moneys arising from such claim shall be set apart, and applied as part of the sinking fund provided in the second section of this article. But the time limited for the fulfillment of any condition of any release or compromise heretofore made or provided for, may be extended by law.

SEC. 5. If the sinking funds, or either of them provided in this article, shall prove insufficient to enable the State, on the credit of such fund, to procure the means, to satisfy the claims of the creditors of the State as they become payable, the Legislature shall, by equitable taxes, so increase the revenues of the said funds as to make them, respectively, sufficient perfectly to preserve the public faith. Every contribution or advance to the canals, or their debt, from any source, other than their direct revenues, shall, with quarterly interest, at the rates then current, be repaid into the Treasury, for

* Last paragraph added, by vote of the people, Nov. 3, 1874.

the use of the State, out of the Canal revenues as soon as it can be done consistently with the just rights of the creditors holding the said Canal debt.

*SEC. 6. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal or the Cayuga and Seneca canal; but they shall remain the property of the State, and under its management forever. Hereafter the expenditures for collections, superintendence, ordinary and extraordinary repairs on the canals named in this section, shall not exceed, in any year, their gross receipts for the previous year. All funds that may be derived from any lease, sale or other disposition of any canal, shall be applied in payment of the debt for which the canal revenues are pledged.

SEC. 7. The Legislature shall never sell or dispose of the Salt Springs, belonging to this State. The lands contiguous thereto and which may be necessary and convenient for the use of the Salt Springs, may be sold by authority of law and under the direction of the Commissioners of the Land Office, for the purpose of investing the moneys arising therefrom in other lands alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.

SEC. 8. No moneys shall ever be paid out of the Treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

SEC. 9. The credit of the State shall not, in any manner, be given or loaned to, or in aid of any individual, association or corporation.

SEC.10. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

SEC.11. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC.12. Except the debts specified in the tenth and eleventh sections of this article, no debts shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay the interest on such debt as it falls due and also to pay and discharge the principal of such debt within eighteen

* As amended by vote of the people, Nov. 3, 1874.

years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it, at such election. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrepealable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage, or at any general election, when any other law, or any bill, or any amendment to the Constitution shall be submitted to be voted for or against.

*SEC. 13. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

*SEC. 14. Neither the Legislature, Canal Board, Canal Appraisers, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. The limitation of existing claims shall begin to run from the adoption of this section; but this provision shall not be construed to revive claims already barred by existing statutes, nor to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

ARTICLE VIII.

SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts

* As amended by vote of the people, Nov. 3, 1874.

passed pursuant to this section, may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. The term corporations as used in this article shall be construed to include all associations and jointstock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

*SEC. 4. The Legislature shall, by general law conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

SEC. 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation issuing bank notes of any description.

SEC. 6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

SEC. 7. The stockholders in every corporation and joint-stock association for banking purposes issuing bank notes or any kind of paper credits to circulate as money, after the first day of January, one thousand eight hundred and fifty, shall be dividually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind, contracted after the said first day of January, one thousand eight hundred and fifty.

SEC. 8. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

SEC. 9. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.

**SEC.10. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or

* As amended by vote of the people, Nov. 3, 1874.
** Sections 10 and 11 added by vote of the people, Nov. 3,1874.

private undertaking. This section shall not however prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held by the State for educational purposes.

*SEC. 11. No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become, directly or indirectly, the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness, except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor, as may be authorized by law.

ARTICLE IX.

SECTION 1. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies, and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

ARTICLE X.

SECTION 1. Sheriffs, clerks of counties, including the Register and Clerk of the city and county of New York, Coroners, and District Attorneys, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the Sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

SEC. 2. All county officers whose election or appointment is not provided for, by this Constitution, shall be elected by the electors of the respective counties or appointed by the Boards of Supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and

* Sections 10 and 11 added by vote of the people, Nov. 3, 1874.

villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people or appointed, as the Legislature may direct.

SEC. 3. When the duration of any office is not provided by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

SEC. 4. The time of electing all officers named in this article shall be prescribed by law.

SEC. 5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

SEC. 6. The political year and Legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Tuesday in January, unless a different day shall be appointed by law.

SEC. 7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers except judicial whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 8. The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution.

*SEC. 9. No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other State officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use, any fees or perquisites of office or other compensation.

ARTICLE XI.

SECTION 1. The militia of this State shall, at all times hereafter, be armed and disciplined and in readiness for service; but all such inhabitants of this State of any religious denomination whatever as from scruples of conscience may be averse to bearing arms, shall be excused therefrom upon such conditions as shall be prescribed by law.

SEC. 2. Militia officers shall be chosen, or appointed as follows: Captains, subalterns, and non-commissioned officers shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions by the written votes of the commissioned officers of the respective regiments and separate battalions; Brigadier-Generals

* Section 9 added by vote of the people, Nov. 3, 1874.

and brigade inspectors by the field officers of their respective brigades; Major-Generals, Brigadier-Generals and commanding officers of regiments or separate battalions, shall appoint the staff officers to their respective divisions, brigades, regiments or separate battalions.

SEC. 3. The Governor shall nominate, and with the consent of the Senate appoint all Major-Generals and the Commissary-general. The Adjutant-general and other Chiefs of staff departments, and the Aides-decamp of the Commander-in-Chief, shall be appointed by the Governor, and their commissions shall expire with the time for which the Governor shall have been elected. The Commissary-general shall hold his office for two years. He shall give security for the faithful execution of the duties of his office in such manner and amount as shall be prescribed by law.

SEC. 4. The Legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the Governor.

SEC. 5. The commissioned officers of the militia shall be commissioned by the Governor; and no commissioned officer shall be removed from office, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commissions subject to removal, as before provided.

SEC. 6. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the Legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

*ARTICLE XII.

SECTION 1. Members of the Legislature (and all officers, executive and judicial, except such inferior officers as shall be by law exempted), shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of _____, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made

* As amended by vote of the people, Nov. 3, 1874.

any promise to influence the giving or withholding any such vote," and no other oath, declaration or test, shall be required as a qualification for any office of public trust.

ARTICLE XIII.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly: and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of Senators, and shall be published for three months previous to the time of making such choice, and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

SEC. 2. At the general election to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and also at such time as the Legislature may be law provide, the question, "Shall there be a convention to revise the Constitution, and amend the same?"* shall be decided by the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the Legislature at its next session shall provide by law for the election of delegates to such convention.

ARTICLE XIV.

SECTION 1. The first election of Senators and Members of the Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-seven. The Senators and Members of Assembly who may be in office on the first day of January, one thousand eight hundred and forty-seven, shall hold their offices until and including the thirty-first day of December following, and no longer.

SEC. 2. The first election of Governor and Lieutenant-Governor under this Constitution shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-eight; and the Governor and Lieutenant-Governor in office when this Constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December of that year.

* A convention, held in 1867, pursuant hereto, proposed a new constitution, which was voted upon in parts, in November, 1869, and rejected, except article six (sections 1 to 27, inclusive).

SEC. 3. The Secretary of State, Comptroller, Treasurer, Attorney-General, District Attorneys, Surveyor-General, Canal Commissioners and Inspectors of State Prisons, in office when this Constitution shall take effect, shall hold their respective offices until and including the thirty-first day of December, one thousand eight hundred and forty-seven, and no longer.

SEC. 4. The first election of Judges and Clerk of the Court of Appeals, Justices of the Supreme Court, and County Judges, shall take place at such time between the first Tuesday of April and the second Tuesday of June, one thousand eight hundred and forty-seven, as may be prescribed by law. The said courts shall respectively enter upon their duties on the first Monday of July, next thereafter; but the term of office of said Judges, Clerk and Justices as declared by this Constitution, shall be deemed to commence on the first day of January, one thousand eight hundred and forty-eight.

SEC. 5. On the first Monday of July, one thousand eight hundred and forty-seven, jurisdiction of all suits and proceedings then pending in the present Supreme Court and Court of Chancery, and all suits and proceedings originally commenced and then pending in any Court of Common Pleas (except in the city and county of New York), shall become vested in the Supreme Court hereby established. Proceedings pending in Courts of Common Pleas, and in suits originally commenced in Justices' Courts, shall be transferred to the County Courts provided for in this Constitution, in such manner and form and under such regulations as shall be provided by law. The Courts of Oyer and Terminer hereby established shall in their respective counties have jurisdiction on and after the day last mentioned of all indictments and proceedings then pending in the present Courts of Oyer and Terminer, and also of all indictments and proceedings then pending in the present Courts of General Sessions of the Peace, except in the city of New York and except in cases of which the Courts of Sessions hereby established may lawfully take cognizance; and of such indictments and proceedings the Courts of Sessions hereby established shall have jurisdiction on and after the day last mentioned.

SEC. 6. The Chancellor and the present Supreme Court shall, respectively, have the power to hear and determine any of such suits and proceedings ready on the first Monday of July, one thousand eight hundred and forty-seven, for hearing or decision, and shall, for their services therein, be entitled to their present rates of compensation until the first day of July, one thousand eight hundred and forty-eight, or until all such suits and proceedings shall be sooner heard and determined. Masters in Chancery may continue to exercise the functions of his office under the provisions of this Constitution. And the Supreme Court hereby established shall also have power to hear and determine such of said suits and proceedings as may be prescribed by law.

SEC. 7. In case any vacancy shall occur in the office of Chancellor or Justice of the present Supreme Court, previously to the first day of July, one thousand eight hundred and forty-eight, the Governor may nominate, and by and with the advice and

consent of the Senate, appoint a proper person to fill such vacancy. Any Judge of the Court of Appeals or Justice of the Supreme Court, elected under this Constitution, may receive and hold such appointment.

SEC. 8. The offices of Chancellor, Justice of the existing Supreme Court, Circuit Judge, Vice-Chancellor, Assistant Vice-Chancellor, Judge of the existing County Courts of each county, Supreme Court Commissioner, Master in Chancery, Examiner in Chancery, and Surrogate (except as herein otherwise provided), are abolished, from and after the first Monday of July, one thousand eight hundred and forty-seven. (1847).

SEC. 9. The Chancellor, the Justices of the present Supreme Court, and the Circuit Judges, are hereby declared to be severally eligible to any office at the first election under this Constitution.

SEC.10. Sheriffs, Clerks of Counties (including the Register and Clerk of the City and County of New York), and Justices of the Peace, and Coroners, in office when this Constitution shall take effect, shall hold their respective offices until the expiration of the term for which they were respectively elected.

SEC.11. Judicial officers in office when this Constitution shall take effect may continue to receive such fees and perquisites of office as are now authorized by law, until the first day of July, one thousand eight hundred and forty-seven, notwithstanding the provisions of the twentieth section of the sixth article of this Constitution.

SEC.12. All local courts established in any city or village, including the Superior Court, Common Pleas, Sessions and Surrogates' Courts of the City and County of New York, shall remain, until otherwise directed by the Legislature, with their present powers and jurisdictions; and the Judges of such Courts and any clerks thereof in office on the first day of January, one thousand eight hundred and forty-seven, shall continue in office until the expiration of their terms of office, or until the Legislature shall otherwise direct.

SEC. 13. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and forty-seven, except as is herein otherwise provided.

*ARTICLE XV.

SECTION 1. Any person holding office under the laws of this State, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

SEC. 2. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony

* Article 15, added by vote of the people, Nov. 3, 1874.

and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it is tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

SEC. 3. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

SEC. 4. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

*ARTICLE XVI.

SECTION 1. All amendments to the Constitution shall be in force from and including the first day of January succeeding the election at which the same were adopted, except when otherwise provided by such amendments.

Done, in Convention, at the Capitol in the city of Albany the ninth day of October in the year one thousand eight hundred and forty-six, and of the Independence of the United States of America the seventy-first.

In witness whereof, we have hereunto subscribed our names.

JOHN TRACY, *President*
and delegate from the County of Chenango.]

JAMES F. STARBUCK,
H.W. STRONG, *Secretaries*
FR. SEGER,

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* Article 16, added by vote of the people, Nov. 3, 1874.

Vote of the People upon the Constitution and its Amendments.

Nov. 4, 1845.	For a convention to consider and alter Constitution	213,257
	Against	33,860
Nov. 3, 1846.	For amended Constitution	221,528
	Against	92,436
Feb.15, 1854.	For amendment of section 3, of article 7, for speedy completion of canals	185,771
	Against	60,526
Nov. 6, 1866.	For a convention to revise Constitution	352,854
	Against	256,364
Nov. 2, 1869.	For the amended Constitution	223,935
	Against	290,455
Nov. 2, 1869.	For the amended Judiciary article	247,240
	Against	240,442
Nov. 5, 1872.	For amendment of article 6, relating to Commission of Appeals	176 038
	Against	9,196
Nov. 4, 1873.	For appointment of Judges of Court of Appeals and of Supreme Court	15,337
	Against	319,979
" "	For appointment of Judges of county and certain city courts	110,725
	Against	319,660
Nov. 3, 1874.	For amendment of article 2	357,635
	Against	177,033
" "	For amendment of article 3, sections 1 to 8	325,904
	Against	206,029
" "	For amendment of article 3, sections 17 to 25	435,313
	Against	98,050
" "	For amendment of article 4	336,197
	Against	196,1
" "	For amendment of article 7	428,150
	Against	104,139
" "	For amendment of article 8,sections 4 and 11	337,891
	Against	194,236
" "	For amendment of article 8, section 10	336,237
	Against	195,047
" "	For amendment of article 10	335,548
	Against	194,933
" "	For amendment of article 12	352,514
	Against	179,365
" "	For new article, 15	351,693
	Against	177,923
" "	For new article, 16	446,883
	Against	85,758

[Future constitutional conventions; how called; election of delegates; compensation; quorum; submission of amendments; officers; employees; rules; vacancies.]

§ 2. At the general election to be held in the year nineteen hundred fifty-seven, and every twentieth year thereafter, and also at such times as the legislature may by law provide, the question "Shall there be a convention to revise the constitution and amend the same?" shall be submitted to and decided by the electors of the state; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the state, as then organized, shall elect three delegates at the next ensuing general election, and the electors of the state voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. . . . Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the state at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendment, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval. . . .

(From The Constitution of the State of New York, As Amended and in Force January 1, 1974.)

- Who should serve as delegates?
  - Considering the authority upon which a constitutional convention is convened, what kinds of people should be delegates to such a meeting? How should delegates be chosen?
  - To what degree will political parties play roles in a constitutional convention?
  - The paragraph omitted from the quotation, above, included provision for paying the delegates. Why is it important that this service not be left to volunteers?
- What changes should be made?
  - If a constitution is seen as a document limiting the powers of the government for which it is constructed, what kinds of limitations are needed in a new constitution, which are not provided for at the present time?
  - If a constitution is intended to distribute governing powers among several levels of government, what additional powers might the local governments request? What local burdens might cities and/or counties ask to have assumed by the State?
  - A constitution provides the machinery for running the government, that is, provisions for voting, selection of officials, the law making procedures, etc. What mechanical procedures presently found in the State constitution need to be streamlined?

What kind of government should New York State have?

- List the purposes of the State government in this present day.
- For each purpose, write a statement that describes how the government would reflect that purpose.
- Can these statements be considered as limitations on the power of the State, or specific statements reflecting the mechanics of how the government operates?
- If your statements of purpose do not fit in the above categories, write a preamble which contains them.